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PP RUEHDBU  
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ZNY CCCCC ZZH  
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FM AMEMBASSY KYIV  
TO RUEHC/SECSTATE WASHDC PRIORITY 3951  
INFO RUEHZG/NATO EU COLLECTIVE  
RUCNCIS/CIS COLLECTIVE  
RUEHLMC/MILLENNIUM CHALLENGE CORP WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 KYIV 002508

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E.O. 12958: DECL: 10/02/2017  
TAGS: [PGOV](#) [PREL](#) [UP](#)  
SUBJECT: UKRAINE: ALL SIDES WAIT WHILE ELECTIONS SLOWLY  
TALLIED

REF: KYIV 2501

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Classified By: Ambassador for reasons 1.4(b,d).

11. (C) Summary. As votes continued to trickle into the Central Election Commission on October 2, parties remained for the most part constrained, holding off on both court challenges and coalition negotiations until the final count is announced. With more than 97 percent of the vote counted by 5:30 pm Kyiv time, the two orange parties -- Our Ukraine-People's Self Defense (OU-PSD) and Bloc Yuliya Tymoshenko (BYuT) -- still had a four vote majority and the Socialists had dropped below the three-percent threshold, probably for good. Ten District Election Commissions (DECs) had still not sent their results to the CEC, six of them in eastern and southern Ukraine and two in Kyiv. The CEC announced that it would reach 100 percent results on October 3, but the delays in the counting are starting to raise concerns. Yushchenko called on law enforcement bodies to investigate the hold-up and members of BYuT and OU claimed it was an effort by some political forces to get the Socialists into the Rada, which would significantly change the outcome of seat allocations. Despite the delays and concerns, international evaluations of the elections have been that the campaign was free and the vote competitive, although the OSCE was critical of the poorly put-together voter lists as disenfranchising voters. The Embassy issued a short press statement October 1 echoing the OSCE's observations and proposes a Washington statement congratulating Ukraine on a mostly fair and competitive election once the complete preliminary results are tallied. End summary.

Slow Count

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12. (SBU) There are still delays in a number of DECs -- the worst offenders are in Odesa and Simferopol in Crimea, where reporting is still under 50 percent. In total, 9 DECs are still under 80 percent reporting, most of them in the east and south and two in Kyiv city. The afternoon of October 1, as incoming results slowed to a trickle, President Yushchenko appealed to the Prosecutor General's Office (PGO) and law enforcement agencies to investigate why some DECs in Donetsk, Luhansk, Crimea, and Odesa were so slow to report. Tymoshenko also made a public appeal to the CEC and law enforcement to ensure that those four oblasts did not falsify results. Head of the Lytvyn Bloc's campaign, Viktor Pylypyshyn, complained at a press conference that Kyiv city was taking too long to count. Number 3 on the BYuT list Mykola Tomenko said at a press conference that BYuT was concerned that the hold-ups were due to attempts to alter the missing results in favor of the Socialists (SPU) to get them over the three-percent threshold. He said SPU was short

60,000 votes. OU-PSD legal eagle Onishchuk held a press conference October 2 and echoed Tomenko's complaint.

¶3. (C) Comment. If the SPU got into the Rada, BYuT and OU-PSD alone would not be able to form a coalition. However, SPU may have trouble getting enough votes to get back over the threshold. The delays may have been an effort by both Regions and BYuT to sit on final vote tallies in stronghold areas, while they waited to see what the final outcome looks like. End comment.

#### Few Court Challenges So Far

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¶4. (SBU) Political parties have been restrained so far in contesting election results in court -- we had expected that a slew of court cases filed by one party could cause major delays in announcing the results -- although some cases were filed on election day. The Donetsk oblast administration announced on October 1 that 27 election-related lawsuits have been filed in the Donetsk local courts, and the PGO said it was investigating 85 election-related claims filed since September 29; as a result, the PGO has opened four criminal cases thus far. (Note. Due to poor funding and lack of attention, many local courts do not post online or make public a list of ongoing court cases, making it difficult to determine the actual number of election-related cases that have been filed. End note.) BYuT deputy leader Turchynov said at an October 1 press conference that BYuT will appeal the election results in some polling stations in Luhansk and Donetsk. (Note. Due to a change in the election law, parties can only have declared invalid the results of individual polling stations. In past elections, whole DECs could be challenged. End note.)

¶5. (SBU) In the first court ruling to be announced, the Luhansk administrative court upheld OU-PSD's complaint, filed

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September 30, that DEC 109 (Severodonetsk) had allowed 6,000 people to vote illegally by not removing them from voter lists in compliance with the Border Guard rule. However, there was no indication as to whether the court decision meant those 6,000 votes would be thrown out.

#### First Forays into Coalition Talks

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¶6. (C) While waiting for the CEC to finish the vote count, all parties have also been restrained in discussing possible coalitions, although they are sending out feelers. Regions faction leader Bohatyreva said at an October 1 rally that she hoped Yushchenko would turn to Regions as the top vote-getter to form a coalition. Lutsenko and Tymoshenko gave a press conference on Channel 5 on October 1, during which Lutsenko said OU-PSD would support Tymoshenko as PM. Tymoshenko said she planned to meet Yushchenko to discuss forming a coalition. OU leader Kyrylenko has been tapped by Yushchenko to lead negotiations with Tymoshenko.

¶7. (C) Deputy Head of the Presidential Secretariat Chaliy told the Ambassador October 2 that the OU-PSD team is planning its next move. He said that with 226 seats for Orange a distinct possibility, OU was reaching out to Lytvyn's party. Lytvyn met with Baloha on October 1 and might meet with Yushchenko soon. Chaliy also mentioned that the Presidential Administration team was still thinking about finding a way to bring Regions in, and that they were talking to Regions' campaign head Kolesnikov. According to Chaliy, President Yushchenko had hosted a party for OU-PSD leadership the day after the election. It was clear that some, including Lutsenko, FM Yatsenyuk and Defense Minister Hrytsenko were open to some form of broad coalition, but Kyrylenko and Katerynychuk were adamantly opposed.

Meeting on the Maidan

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¶18. (SBU) Regions held a rally on the Maidan on the evening of October 1. It seemed to have been organized to be the basis of a protest if the elections had gone badly (or presumably a celebration if they had gone better for Regions). However, with the preliminary results not yet complete with Regions leading but orange likely to get a majority, the event was low-key. PM Yanukovich, after going back and forth on whether he would attend, did show up and gave a speech to 5,000-6,000 supporters. He said that Regions, as the first-past-the-post party, should have the first shot at forming a coalition, as was the norm, he argued, in other democratic countries. He also said that there would not be another Rada election for five years, as everyone was sick of voting. Other party leaders, including Bohatyreva, Mykhaylo Chechetov, Inna Bohoslovska, Nestor Shufrych, and Vasyl Kysylev also attended.

#### International Opinion: Elections Were Competitive

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¶19. (SBU) While avoiding the use of the term "free and fair", a joint statement from OSCE/ODIHR, PACE, OSCE PA, NATO PA, and the European Parliament called the elections "open and competitive." They noted, much as U.S. observers have, that the campaign was open, the media operated freely, and that problems on voting day were more due to disorganization than systematic attempts at fraud. They also said the elections were in line with OSCE and COE commitments and other international standards for democratic elections. They did, however, note their concerns with the voter lists and the requirement for the Border Guards to eliminate voters out of the country 72 hours before the election from the voter lists as possible disenfranchisement. The international organizations, however, withheld final evaluation pending possible court challenges and final vote counts.

¶10. (SBU) In addition, EU foreign policy czar Javier Solana made a positive statement about the conduct of the elections; the German FM said the elections were generally fair and transparent and met international standards. Russian Foreign Minister Lavrov said the elections allowed for the free expression of will. Adrian Severin, head of the EP's observation mission, said the election results could not be questioned because they were generally held in line with European standards. Once the preliminary results are published by the CEC, we believe that it would be useful for Washington to weigh in with a similar statement in order to positively note Ukraine's continued progress in democratic development.

¶11. (U) Visit Embassy Kyiv's classified website:

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[www.state.sgov.gov/p/eur/kiev](http://www.state.sgov.gov/p/eur/kiev).  
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